

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

To:

see form PCT/ISA/220

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2006/040361

International filing date (day/month/year)
13.10.2006

Priority date (day/month/year)
14.10.2005

International Patent Classification (IPC) or both national classification and IPC
INV. B65D1/02 B65D79/00

Applicant
GRAHAM PACKAGING COMPANY, L.P.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office - P.B. 5818 Patents
NL-2280 HV Rijswijk - Pays Bas
Tel. +31 70 340 - 2040 Tx: 31 651 epo nl
Fax: +31 70 340 - 3016

Date of completion of
this opinion

form
PCT/ISA/210

Authorized Officer

Sundell, Oli

Telephone No. +31 70 340-3628



**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2006/040361

Box No. 1 Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of:
 - ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ on paper
 - ☐ in electronic form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in electronic form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2006/040361

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	8-13
	No: Claims	1-7,14-22
Inventive step (IS)	Yes: Claims	
	No: Claims	1-22
Industrial applicability (IA)	Yes: Claims	1-22
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

1. Reference is made to the following document:

D1 : US 2002/153343 A1 (TOBIAS JOHN W [US] ET AL) 24 October 2002 (2002-10-24)

D2: WO 2004/028910 A (CO2 PAC LTD [NZ]; MELROSE DAVID MURRAY [NZ]) 8 April 2004 (2004-04-08)

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.
Document D1 discloses (the references in parentheses applying to this document):

A base (12) of a container (10) comprising:

a bearing surface (38);

a hinge (at 42);

a first wall (36) sloping in a first direction from said bearing surface (38) to said hinge (at 42); and a second wall (40) sloping in a second direction (Fig.4, B) away from said hinge (42), wherein said second wall (40) is adapted to be repositioned about said hinge (42) with substantially no movement of said first wall.

The subject matter of claim 1 is therefore not new (Article 33(2) PCT).

3. The same reasoning applies to the corresponding independent claim 15, the subject matter of which is also not new (Article 33(2) PCT).
4. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 22 is not new in the sense of Article 33(2) PCT.
Document D1 discloses (the references in parentheses applying to this document):

A method of compensating for vacuum pressure changes within a container (paragraph [0012]), comprising:

hot filling the container with a product (paragraph [0013]); sealing the container with a closure; cooling the hot filled container; and repositioning a base wall (40) adjoining a hinge (42) of the base (12) about the hinge from an outward extending position

(Fig.4, B) to an inward extending position (Fig.4, C), thereby reducing the internal pressure of the container, wherein prior to repositioning, the container is adapted to stand upright on a flat surface (cf. Fig.4).

The subject matter of claim 22 is therefore not new (Article 33(2) PCT).

5. Dependent claims 2-14, 16-21 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT), see documents D1 and D2 and the corresponding passages cited in the search report.